

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1196 of 2020**

- State Of Chhattisgarh Through – District Magistrate, District – Korba, Chhattisgarh

---- Petitioner**Versus**

- Raja Sharma, Aged about – 28 years, S/o Sahdev Sharma, R/o Village – Ramsagarpara Korba, Police Station – Kotwali, District – Korba, Chhattisgarh

--- Respondent

For Petitioner/State : Mr. Rajendra Tripathi, PL

D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order on Board****Per Manindra Mohan Shrivastava****16.08.2021**

Heard.

1. There is prayer for grant of leave to appeal against the judgment of acquittal dated 02.07.2019 passed by the Court of learned Special Judge (POCSO), Katooghora, District – Korba (CG) in Special Case (POCSO) No.36/2015, by which, the respondent/accused is acquitted of the charges of commission of offences under Sections 363, 366A, 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Though, learned counsel for the State would argue that the prosecution has led the evidence of the father, mother and brother as also the school records which proved that on the date of alleged commission of offence the prosecutrix was less than 18 years of age, we find that the learned trial Court has recorded the finding that the evidence with regard to age is doubtful because the age of the prosecutrix at the time of her birth has been stated by the father and mother which renders probable that the prosecutrix

was more than 18 years of age on the date of offence and no radiological test was conducted no birth certificate issued from the competent authorities was produced nor any evidence of hospital where she took birth. The view taken by the learned trial Court is plausible and possible view and does not appear to be suffering from any patent illegality, perversity so as to warrant interference by this Court, given the limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal. Accordingly, application is **rejected**.

3. CRMP is accordingly closed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge